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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

11 RIGHTHAVEN LLC, a Nevada limited-
liability company,

12
13 Plaintiff,

14 v.

15 BONNIER CORPORATION, a Delaware
16 domestic corporation; and CLAY COOPER,
an individual,

17
18 Defendants.
19

Case No.: 2:10-cv-01573

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

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21 Righthaven LLC (“Righthaven”) complains as follows against Bonnier Corporation
22 (“Bonnier”) and Clay Cooper (“Mr. Cooper”; collectively with Bonnier known herein as the
23 “Defendants”) on information and belief:
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25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
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28

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Bonnier is, and has been at all times relevant to this lawsuit, a Delaware domestic corporation.

5. Bonnier is, and has been at all times relevant to this lawsuit, identified by the current registrar, Network Solutions, LLC (“Network Solutions”), as the registrant of the Internet domain found at <fieldandstream.com> (the “Domain”).

6. Bonnier is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”), as evidenced by a copyright notice displayed on the Website: “Copyright © 2009 Bonnier Corp.”

7. Mr. Cooper reproduced an unauthorized copy of the Righthaven-owned literary work entitled: “Nevadans agree with court on gun ownership” (the “Work”), attached hereto as Exhibit 1, and posted said unauthorized copy (the “Infringement”), attached hereto as Exhibit 2, on the Website.

JURISDICTION

8. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

9. Righthaven is the owner of the copyright in the Work.

10. At all times relevant to this lawsuit, the Work has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.

11. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

1 12. On or about July 21, 2010, the Defendants displayed, and continue to display, the
2 Infringement on the Website.

3 13. At all times relevant to this lawsuit, the Infringement has depicted and depicts the
4 original source publication as the Las Vegas *Review-Journal*.

5 14. The subject matter, at least in part, of the Work and the Infringement, is a survey
6 of Nevada residents regarding a recent gun rights lawsuit adjudicated by the Supreme Court.

7 15. At all times relevant to this lawsuit, the Defendants knew that the Work was
8 originally published in the Las Vegas *Review-Journal*.

9 16. At all times relevant to this lawsuit, the Defendants knew that the Infringement
10 was and is of specific interest to Nevada residents.

11 17. The Defendants' display of the Infringement was and is purposefully directed at
12 Nevada residents.

13 18. Bonnier knew, or reasonably should have known, that websites, such as the
14 Website, are and were at all times relevant to this lawsuit, the habitual subject of postings by
15 others of copyright-infringing content.

16 19. At all times relevant to this lawsuit, Bonnier did not institute any proactive policy
17 of monitoring, or attempting to monitor, the postings by others of copyright-infringing content
18 on the Website.

19 20. At all times relevant to this lawsuit, Bonnier did not institute any proactive policy
20 of deleting, or attempting to delete, the postings by others of copyright-infringing content on the
21 Website.

22 21. At all times relevant to this lawsuit, Bonnier's failure to institute any proactive
23 policies intended to address the postings by others of copyright-infringing content on the
24 Website constituted and constitutes Bonnier's willful blindness to copyright infringements
25 occurring on the Website.

VENUE

22. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

23. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(c), because Bonnier is subject to personal jurisdiction in Nevada.

24. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal jurisdiction in Nevada.

FACTS

25. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

26. Righthaven is the owner of the copyright in and to the Work.

27. The Work was originally published on or about July 19, 2010.

28. On September 9, 2010, the United States Copyright Office (the “USCO”) received Righthaven’s official submittal for the registration to the Work, including the application, the deposit copy, and the registration fee (the “Complete Application”), Service Request No. 1-484453963, and attached hereto as Exhibit 3 is the official USCO application submittal for the Work depicting the occurrence of the Complete Application.

29. On or about July 21, 2010, Mr. Cooper posted the Infringement on the Website, and the indication of Mr. Cooper’s posting of the Infringement on the Website is attached hereto as Exhibit 4.

30. On or about July 21, 2010, the Defendants displayed, and continue to display, the Infringement on the Website.

1 31. The Defendants did not seek permission, in any manner, to reproduce, display, or
2 otherwise exploit the Work.

3 32. The Defendants were not granted permission, in any manner, to reproduce,
4 display, or otherwise exploit the Work.

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7 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

8 33. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
9 32 above.

10 34. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
11 U.S.C. § 106(1).

12 35. Righthaven holds the exclusive right to prepare derivative works based upon the
13 Work, pursuant to 17 U.S.C. § 106(2).

14 36. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
15 17 U.S.C. § 106(3).

16 37. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
17 U.S.C. § 106(5).

18 38. The Defendants reproduced the Work in derogation of Righthaven's exclusive
19 rights under 17 U.S.C. § 106(1).

20 39. The Defendants created an unauthorized derivative of the Work in derogation of
21 Righthaven's exclusive rights under 17 U.S.C. § 106(2).

22 40. The Defendants distributed, and continue to distribute, an unauthorized
23 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
24 17 U.S.C. § 106(3).

25 41. The Defendants publicly displayed, and continue to publicly display, an
26 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
27 rights under 17 U.S.C. § 106(5).

28 42. Bonnier has willfully engaged in the copyright infringement of the Work.

43. Mr. Cooper has willfully engaged in the copyright infringement of the Work.

44. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

45. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

a. All evidence and documentation relating in any way to the Defendants' use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Defendants have communicated regarding the Defendants' use of the Work; and

c. All financial evidence and documentation relating to the Defendants' use of the Work;

1 3. Direct Network Solutions, and any successor domain name registrar for the
2 Domain, to lock the Domain and transfer control of the Domain to Righthaven;

3 4. Award Righthaven statutory damages for the willful infringement of the Work,
4 pursuant to 17 U.S.C. § 504(c);

5 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by
6 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

7 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
8 law; and

9 7. Grant Righthaven such other relief as this Court deems appropriate.

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12 **DEMAND FOR JURY TRIAL**

13 Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil
14 Procedure.

15 Dated this fourteenth day of September, 2010.

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17 RIGHTHAVEN LLC

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19 By: /s/ J. Charles Coons
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